THE HONOURABLE SRI JUSTICE T.CH. SURYA RAO
AND
THE HONOURABLE SRI JUSTICE G. CHANDRAIAH

W.P. No.8198 of 2002

ORDER: (Per Hon'ble Sri Justice T.CH. Surya Rao)

The order dated 16-10-2001 passed in I.A. No.1595 of 2001 in L.G.O.P. No.28 of 1990 by the learned Chairman, Special Tribunal constituted under the A.P. Land Grabbing (Prohibition) Act, 1982 (for short 'the Act') cum District Judge, Nellore is being assailed while seeking a Writ of *Certiorari* in the instant writ petition.

The unsuccessful petitioner in I.A. No.1595 of 2001 is the respondent in O.P. No.28 of 1990 filed by the second respondent herein before the Tribunal. The petitioner appeared through his counsel pursuant to the notice and publication as per the Rules. Apart from the fact that he had been pleading adjournments on many occasions, finally remained *ex parte* on 28-11-1997 on which date he was set *ex parte* by the learned Tribunal. An order was passed in O.P. No.28 of 1990 on 04-12-1997. Nearly two years ten months thereafter, he came forward with an application in I.A. No.1595 of 2001 seeking to set aside the *ex parte* decree passed against him. That application under the impugned order was dismissed by the learned Tribunal on the premise that there was no sufficient cause to set aside the order passed by it.

The ground set forth *inter alia* in the application seems to be

sickness of petitioner's daughter who had to be taken for treatment from Madras to Nellore and had no knowledge of the order passed by the learned Tribunal which in his view required to be communicated and had not been communicated to him.

We have heard the learned counsel appearing for the petitioner and the learned counsel for the respondent.

The facts are not in dispute. The writ petitioner was set *ex parte* on 28-11-1997. *Ex parte* decree was passed on 04-12-1997. Thereafter, the application seeking to set aside the *ex parte* decree was filed on 02-09-2000. There is no provision, which obligates the Tribunal, to serve the copy of the order upon the respondent either under the Act or under the Rules made thereunder. It is a case where the possession was delivered pursuant to the *ex parte* decree passed against the petitioner duly and thereafter the respondent got constructed a building thereon.

In view of the above admitted facts, we see no merits in the instant writ petition and there is nothing which can persuade us to consider that the order now being impugned suffers from any illegality or irregularity. Therefore, there is nothing to interfere with the impugned order. It is open to the petitioner to seek appropriate remedy, which is available under law and under the provisions of the Act. The writ petition therefore fails and is dismissed. No order as to costs.

_____

T.CH. SURYA RAO, J

Date: 09-10-2006

_____

G. CHANDRAIAH, J

LSK